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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 MICHAEL ROYSTER,  
10  
11 Petitioner,

12 v.

13 COMMONWEALTH OF PENNSYLVANIA,  
14  
15 Respondent.

Case No. C08-5321RJB

ORDER DENYING CERTIFICATE  
OF APPEALABILITY

16 This matter comes before the court on the petitioner's Notice of Appeal. Dkt. 8. The court  
17 must consider whether to grant or deny the petitioner a Certificate of Appealability. *See* 28 U.S.C.  
18 2253(c)(3). The court has reviewed the record herein.

19 PROCEDURAL HISTORY

20 On May 29, 2008, U.S. Magistrate Judge Karen L. Strombom issued a Report and  
21 Recommendation, recommending that the court dismiss this petition for writ of habeas corpus, which  
22 apparently challenges a Pennsylvania conviction, because this court does not have jurisdiction to  
23 grant the writ of habeas corpus within the Commonwealth of Pennsylvania and does not have  
24 personal jurisdiction over the custodian of the SCI-Rockview Institution in Bellefonte, Pennsylvania,  
25 where petitioner is apparently incarcerated. Dkt. 3. On June 20, 2008, the court adopted the Report

1 and Recommendation and dismissed the case. Dkt. 5. On June 23, 2008, through clerical error, an  
2 incorrect judgment was entered. Dkt. 6. An amended judgment was entered on July 7, 2008. Dkt.  
3 7. On July 7, 2008, petitioner appealed to the U.S. Court of Appeals for the Ninth Circuit. Dkt. 8.

#### 4 STANDARD FOR GRANTING A CERTIFICATE OF APPEALABILITY

5 The district court should grant an application for a Certificate of Appealability only if the  
6 petitioner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. §  
7 2253(c)(3). To obtain a Certificate of Appealability under 28 U.S.C. § 2253(c), a habeas petitioner  
8 must make a showing that reasonable jurists could debate whether, or agree that, the petition should  
9 have been resolved in a different manner or that the issues presented were adequate to deserve  
10 encouragement to proceed further. *Slack v. McDaniel*, 120 S.Ct. 1595, 1603-04 (2000) (*quoting*  
11 *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). When the court denies a claim on  
12 procedural grounds, the petitioner must show that jurists of reason would find it debatable whether  
13 the petition states a valid claim of the denial of a constitutional right and that jurists of reason would  
14 find it debatable whether the district court was correct in its procedural ruling. *Slack v. McDaniel*,  
15 120 S.Ct. at 1604.


#### 16 DISCUSSION

17 This court does not have jurisdiction over petitioner’s petition for writ of habeas corpus. A  
18 clerical error in entering the judgment does not confer jurisdiction on this court nor does it provide a  
19 basis for granting habeas relief. There is nothing in the record that would support a conclusion that  
20 jurists of reason would find it debatable whether the petition states a valid claim of the denial of a  
21 constitutional right and that jurists of reason would find it debatable whether this court was correct  
22 in its procedural ruling. This is a frivolous appeal. The Certificate of Appealability should be denied.

23 Accordingly, it is hereby **ORDERED** that a Certificate of Appealability is **DENIED**.

24 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to  
25 any party appearing *pro se* at said party’s last known address.

1 DATED this 28<sup>th</sup> day of July, 2008.

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4 ROBERT J. BRYAN  
United States District Judge